

IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF
VIRGINIA

DONGGUAN JIANQUN SHOES COMPANY, LTD

Plaintiff,

v.

CONSOLIDATED SHOE COMPANY, INC.,
Individually and d/b/a CONSOLIDATED SHOE
COMPANY, LIMITED, HONG KONG, a/d/b/a TRADE
WINDS IMPORTING COMPANY, a/d/b/a TRADE
WINDS IMPORTING, LLC, a/d/b/a NEW CENTURY
FOOTWEAR PRODUCTS, CO., LIMITED.,

CONSOLIDATED SHOE COMPANY, LIMITED, HONG
KONG, Individually and d/b/a CONSOLIDATED SHOE
COMPANY, INC., a/d/b/a TRADE WINDS
IMPORTING COMPANY, a/d/b/a TRADE WINDS
IMPORTING, LLC, a/d/b/a NEW CENTURY
FOOTWEAR PRODUCTS, CO., LIMITED,

TRADE WINDS IMPORTING, LLC, individually and
d/b/a CONSOLIDATED SHOE COMPANY, INC.,
a/d/b/a CONSOLIDATED SHOE COMPANY, LIMITED,
HONG KONG, a/d/b/a TRADE WINDS IMPORTING
COMPANY, a/d/b/a NEW CENTURY FOOTWEAR
PRODUCTS, CO., LIMITED,

NEW CENTURY FOOTWEAR PRODUCTS, CO.,
LIMITED, individually and d/b/a CONSOLIDATED
SHOE COMPANY, INC., a/d/b/a CONSOLIDATED
SHOE COMPANY, LIMITED, HONG KONG, a/d/b/a
TRADE WINDS IMPORTING, LLC, a/d/b/a TRADE
WINDS IMPORTING COMPANY,

Defendants.

Case No.: **6:21CV00048**

JURY TRIAL DEMANDED

CLERKS OFFICE U.S. DIST. COURT
AT LYNCHBURG, VA
FILED

9/24/2021

JULIA C. DUDLEY, CLERK
BY: s/ CARMEN AMOS
DEPUTY CLERK

COMPLAINT

Plaintiff, Dongguan Jianqun Shoes Company, LTD, by and through their attorney, Darrell
W. Kuntz, files this Complaint against Consolidated Shoe Company, Inc., Consolidated Shoe

Company, LTD, Hong Kong, Trade Winds Importing Company, Trade Winds Importing, LLC, and New Century Footwear Products, Co., Limited, stating as follows:

I. Introduction

1. Between September 2020 and May 2021, the parties entered into a series of contracts for the manufacture and delivery of women's shoes.

2. Plaintiff asserts that they produced and delivered goods requested by Defendants in a timely and acceptable manner in accordance with the terms of the contracts and the understood terms established by the course of dealing traditionally followed by the parties.

3. Plaintiff asserts that Defendants have failed to satisfy the payments for goods produced and delivered pursuant to seventy-six (76) separate purchase orders/contracts.

4. Plaintiff is asserting breach of contract claims against Defendants for unpaid funds of \$1,169,845.30.

II. Parties

5. Plaintiff hereby incorporates the preceding paragraphs as if set forth more fully herein.

6. Plaintiff, Dongguan Jianqun Shoes Company, Ltd., ("Dongguan"), is a foreign business entity formed under the laws of the People's Republic of China, having a principal place of business located at 1 Huaxinger Road, Building 1, Houjie Town of Dongguan City, Guangdong Province, Zip Code 523962. Plaintiff's principal place of business has an alternate mailing address leading to the same physical location as the previous address and is found at 232 Xihuan Road, Houjie Town of Dongguan City, Guangdong Province, Zip Code 523962.

7. Plaintiff, Dongguan is a business entity that manufactures and supplies shoes for retail sale in numerous countries including the United States of America.

8. Plaintiff regularly manufactures and delivers shoes for sale by business entities located in the United States of America.

9. Upon information and belief, Defendant, Consolidated Shoe Company, Inc., is a domestic corporation, incorporated and registered to conduct business in the Commonwealth of Virginia having a principal place of business located at 22290 Timberlake Road, Lynchburg, VA 24502.

10. Upon information and belief, Defendant, Consolidated Shoe Company, Inc.'s registered agent is William A. Carrington, located at 22290 Timberlake Road, Lynchburg, VA 24502.

11. Upon information and belief, Defendant, Consolidated Shoe Company, Inc., does business under a variety of names, including Consolidated Shoe Company, Ltd., Hong Kong, Trade Winds Importing Company, Trade Winds Importing, LLC and New Century Footwear Products, Co., Limited.

12. Upon information and belief, Defendant, Consolidated Shoe Company, Ltd., Hong Kong, is a foreign business entity formed under the laws of the People's Republic of China, having a principal place of business located at 402-406 Hennessy Road, Room 609A of Opulent Building, Wanchai, Hong Kong.

13. Upon information and belief, Consolidated Shoe Company, Ltd., Hong Kong, is a subsidiary of Consolidated Shoe Company, Inc., and all of their activities are solely controlled by the United States Head Office located at 22290 Timberlake Road, Lynchburg, VA 24502 and described herein at paragraph 9 of this Complaint.

14. Upon information and belief, Defendant, Consolidated Shoe Company, Ltd., Hong Kong, does business under a variety of names, including Consolidated Shoe Company, Inc., Trade

Winds Importing Company, Trade Winds Importing, LLC., and New Century Footwear Products, Co., Limited.

15. Upon information and belief, Defendant, Consolidated Shoe Company, Ltd., Hong Kong, regularly does business in the United States of America. Such business activities include but are not limited to receiving purchase orders from American companies, forwarding orders to Chinese manufacturers, receiving payments from American companies, paying Chinese manufacturers on behalf of American companies and facilitating the shipping and delivery of goods produced in China to their ultimate destinations in the United States of America.

16. Upon information and belief, Defendant, Trade Winds Importing, LLC, is a domestic limited liability company registered to conduct business in the Commonwealth of Virginia, having a principal place of business located at 22290 Timberlake Road, Lynchburg, VA 24502.

17. Upon information and belief, Defendant, Trade Winds Importing, LLC's registered agent is William A. Carrington, located at 22290 Timberlake Road, Lynchburg, VA 24502.

18. Upon information and belief, Defendant, Trade Winds Importing, LLC, does business under a variety of names, including Consolidated Shoe Company, Inc., Consolidated Shoe Company, Ltd., Hong Kong, Trade Winds Importing Company and New Century Footwear Products, Co., Limited.

19. Upon information and belief, Defendant, New Century Footwear Products, Co., Limited, is a foreign business entity formed under the laws of the People's Republic of China, having a principal place of business located at No. 117, Houjie Avenue East, Room 101 of Building 1, Houjie Town, Dongguan City, Guangdong Province.

20. Upon information and belief, New Century Footwear Products, Co., Limited, is a subsidiary of Consolidated Shoe Company, Inc., and all of their activities are solely controlled by the United States Head Office located at 22290 Timberlake Road, Lynchburg, VA 24502 and described herein at paragraph 9 of this Complaint.

21. Upon information and belief, Defendant, New Century Footwear Products, Co., Limited, does business under a variety of names, including Consolidated Shoe Company, Inc., Consolidated Shoe Company, Ltd., Hong Kong, Trade Winds Importing Company and Trade Winds Importing, LLC.

22. Upon information and belief, Defendant, New Century Footwear Products, Co., Limited, regularly does business in the United States of America. Such business activities include but are not limited to receiving purchase orders from American companies, forwarding purchase orders to Chinese manufacturers, receiving payments from American companies, paying Chinese manufacturers on behalf of American companies and facilitating the shipping and delivery of goods produced in China to their ultimate destinations in the United States of America.

23. It is believed and therefore averred that Consolidated Shoe Company, Inc., Consolidated Shoe Company, Ltd., Hong Kong, Trade Winds Imports, LLC., and New Century Footwear Products, Co., Limited, are the same company, each being the alter ego of the other or are affiliated businesses with all business decisions being coordinated and controlled by Consolidated Shoe Company, Inc.

III. Background

24. Plaintiff hereby incorporates the preceding paragraphs by reference.

25. For over ten (10) years, the Parties have enjoyed a fruitful business relationship.

26. Throughout the course of dealing between the parties, Defendants would receive requests for the manufacture and purchase of women's shoes from American based customers. Defendants would then contact Plaintiff to inquire about the price of manufacturing a given shoe model. Plaintiff would in return provide an estimate of cost per pair of a given shoe model, and Defendants' would enter into an agreement regarding the price per pair of a model of shoe.

27. Defendant would then place purchase orders with Plaintiff and Plaintiff in turn would accept the orders, manufacture, produce, ship and deliver the requested goods.

28. The Parties entered into separate negotiated agreements with one another for each model of shoe to be manufactured by Plaintiff. Each shoe model had a different price per pair depending on the model, materials and color.

29. The terms of the agreement for the manufacture of each model of shoe were set forth in a document titled as a "Commitment," and included the price per pair to be manufactured, the manner of shipping and manner and timing of payment.

30. Under each of these "Commitments," Defendants were required to pay Plaintiffs for the goods within sixty (60) days of shipping.

31. This business relationship was discontinued by Plaintiff in May of 2021 as a result of Defendants' increasing unpaid invoices.

32. Between September of 2020 and May of 2021, Plaintiff accepted seventy-six (76) separate purchase orders submitted by Defendants with the expectation of receiving full payment within sixty (60) days of shipping the goods.

33. The seventy-six (76) purchase orders were for the production and delivery six (6) separate models of shoe, specifically, model numbers: W63935; W50171; W63969; W64126; W63608; and, W63962.

34. The terms for each of the aforementioned shoe models was set forth in the attached Commitment agreements. (See attached Exhibit A setting forth terms for Model No. W63935; Exhibit B setting forth terms for Model No. W50171; Exhibit C setting forth terms for Model No. W63969; Exhibit D setting forth terms for Model Nos. W64126 and W63608; Exhibit E setting forth terms for Model No. W63962).

35. The price per pair for Model No. W50171 was reduced from \$6.85 per pair to \$6.20 on or about December 1, 2020. (Revised price for Model No. 50171 attached hereto as Exhibit F).

36. The price per pair for Model No. W63935 was reduced from \$7.90 per pair to \$6.85 per pair beginning on or about January 5, 2021. (Revised Price for Model No. W63935 attached hereto as Exhibit G.)

37. Defendants have failed to pay Plaintiff for goods and services performed on seventy-six (76) purchase orders, with invoices totaling \$1,169,845.30.

IV. PURCHASE ORDERS

38. Plaintiff hereby incorporates the preceding paragraphs by reference.

39. In September of 2020, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036725	-	\$102,028.00
b. Order No: 50036679	-	\$65,127.00
c. Order No: 50036680	-	\$8,313.00
d. Order No: 50036746	-	\$8,496.00
e. Order No: 50036747	-	\$5,292.00
f. <u>September 2020 Total</u>	-	<u>\$189,256.00.</u>

40. Each of the purchase orders performed by Plaintiff in September of 2020 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

41. In the months of October and November of 2020, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036825	-	\$10,710.00
b. Order No: 50036826	-	\$5,610.00
c. Order No: 50036728	-	\$11,109.00
d. Order No: 50036729	-	\$5,934.00
e. Order No: 50036730	-	\$3,852.50
f. Order No: 50036731	-	\$3,818.00
g. Order No: 50036732	-	\$3,162.50
h. Order No: 50036733	-	\$4,761.00
i. Order No: 50036442	-	\$110,916.00
j. Order No: 50036444	-	\$9,480.00
k. Order No: 50036458	-	\$10,333.20
l. Order No: 50036468	-	\$78,778.80
m. Order No: 50036469	-	\$3,128.40
n. Order No: 50036847	-	\$7,425.00
o. Order No: 50036870	-	\$3,223.20
p. <u>October and November 2020 Combined Total</u>	-	<u>\$272,241.60</u>

42. Each of the purchase orders performed by Plaintiff in October and November of 2020 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

43. In December of 2020, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036851	-	\$11,978.40
b. Order No: 50036852	-	\$3,087.60
c. Order No: 50036853	-	\$5,803.20
d. Order No: 50036854	-	\$10,304.40
e. Order No: 50036855	-	\$2,455.20
f. Order No: 50036935	-	\$6,621.60
g. <u>December 2020 Total</u>	-	<u>\$40,250.40</u>

44. Each of the purchase orders performed by Plaintiff in December of 2020 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

45. In January of 2021, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036864	-	\$2,265.00
b. Order No: 50036879	-	\$82,687.50
c. Order No: 50036901	-	\$32,193.00
d. Order No: 50036839	-	\$105,367.80
e. Order No: 50036840	-	\$4,530.00
f. Order No: 50036848	-	\$4,110.00

g. Order No: 50036863	-	\$44,439.30
h. Order No: 50036858	-	\$2,265.00
i. Order No: 50036877	-	\$8,820.00
j. Order No: 50036878	-	\$11,907.00
k. Order No: 50036880	-	\$4,851.00
l. Order No: 50036881	-	\$5,292.00
m. Order No: 50036900	-	\$8,643.60
n. Order No: 50036936	-	\$2,466.00
o. Order No: 50036443	-	\$16,152.30
p. Order No: 50036447	-	\$4,110.00
q. Order No: 50036471	-	\$4,767.60
r. Order No: 50036884	-	\$3,452.40
s. Order No: 50036460	-	\$2,055.00
t. <u>January 2021 Total</u>	-	<u>\$350,374.50</u>

46. Each of the purchase orders performed by Plaintiff in January of 2021 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

47. In February of 2021, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036859	-	\$1,359.00
b. Order No: 50036882	-	\$3,528.00
c. Order No: 50036937	-	\$1,644.00
d. Order No: 50036941	-	\$8,775.90

e. Order No: 50036849	-	\$6,165.00
f. Order No: 50036445	-	\$20,550.00
g. Order No: 50036841	-	\$4,530.00
h. Order No: 50036842	-	\$4,530.00
i. Order No: 50036943	-	\$8,820.00
j. Order No: 50036953	-	\$22,050.00
k. Order No: 50036865	-	\$4,575.30
l. Order No: 50037080	-	\$12,049.80
m. Order No: 50037019	-	\$2,265.00
n. Order No: 50036976	-	\$2,265.00
o. Order No: 50036947	-	\$4,410.00
p. Order No: 50036857	-	\$25,071.00
q. Order No: 50036866	-	\$1,812.00
r. Order No: 50036944	-	\$4,410.00
s. Order No: 50036952	-	\$22,050.00
t. Order No: 50036954	-	\$4,410.00
u. Order No: 50036459	-	\$10,727.10
v. Order No: 50036448	-	\$5,507.40
w. Order No: 50036470	-	\$17,138.70
x. Order No: 50036472	-	\$6,206.10
y. <u>February 2021 Total</u>	-	<u>\$204,849.30</u>

48. Each of the purchase orders performed by Plaintiff in February of 2021 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

49. In March and April of 2021, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036867	-	\$3,578.70
b. Order No: 50036843	-	\$4,530.00
c. Order No: 50036967	-	\$17,640.00
d. Order No: 50036979	-	\$8,820.00
e. Order No: 50036861	-	\$2,265.00
f. Order No: 50036868	-	\$1,812.00
g. Order No: 50036844	-	\$3,624.00
h. Order No: 50036860	-	\$906.00
i. Order No: 50037020	-	\$2,536.80
j. Order No: 50036977	-	\$2,265.00
k. Order No: 50036949	-	\$4,410.00
l. Order No: 50036955	-	\$2,205.00
m. Order No: 50036883	-	\$1,764.00
n. Order No: 50036883	-	\$1,764.00 (different color from (m))
o. Order No: 50036938	-	\$1,233.00
p. <u>March and April 2021 Combined Total</u>	-	<u>\$59,353.50</u>

50. Each of the purchase orders performed by Plaintiff in March and April of 2021 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

51. In May of 2021, Plaintiff manufactured, produced, shipped and delivered goods pursuant to the following purchase orders with the corresponding outstanding amounts:

a. Order No: 50036980	-	\$8,820.00
b. Order No: 50036968	-	\$17,640.00
c. Order No: 50037081	-	\$4,530.00
d. Order No: 50036869	-	\$2,718.00
e. Order No: 50036845	-	\$2,265.00
f. Order No: 50037082	-	\$4,530.00
g. Order No: 50036950	-	\$4,410.00
h. Order No: 50036846	-	\$2,265.00
i. Order No: 50036862	-	\$2,265.00
j. Order No: 50036966	-	\$1,359.00
k. Order No: 50036978	-	\$1,359.00
l. Order No: 50036965	-	\$1,359.00
m. <u>May 2021 Total</u>	-	<u>\$53,520.00</u>

52. Each of the purchase orders performed by Plaintiff in May of 2021 identifies Trade Winds Importing, LLC located at 22290 Timberlake Road, P.O. Box 10549, Lynchburg, VA 24502 as the original source of the purchase order.

53. The total amount of the outstanding invoices owed by Defendants to Plaintiff is \$1,169,845.30.

COUNT I

BREACH OF CONTRACT

54. Plaintiff hereby incorporates the preceding paragraphs as if set forth more fully herein.

55. Between September 2020 and May 2021, Plaintiff received seventy-six (76) purchase orders from Defendants, wherein Defendants requested that Plaintiff manufacture, ship and deliver six (6) different models of women's shoes to the United States of America for retail sale.

56. During this time, Plaintiff accepted all seventy-six (76) of the aforementioned purchase orders as evidenced by the fact that Plaintiff manufactured, shipped and delivered the goods requested by Defendants.

57. In return for Plaintiff's performance, Defendants had an obligation to reimburse Plaintiff within sixty (60) days of the date the goods were shipped.

58. Defendants have failed to pay Plaintiff the sum of \$1,169,845.30 for the goods Plaintiff manufactured and delivered.

59. As a result, Defendants are in breach of the seventy-six (76) contracts entered into with Plaintiff.

60. Plaintiff has therefore been damaged in the amount of \$1,169,845.30, plus interest.

61. The contracts at issue are governed by the United Nations Convention on Contracts for the International Sale of Goods ("UNCISG").

62. The United States of America and the People's Republic of China are both signatories to the UNCISG, thereby making any business entities or citizens of either country subject to the terms set forth in the UNCISG.

63. This matter is therefore properly before this court as a civil action arising under a treaty of the United States. (U.S.C. § 1331).

64. Article 7.4.9 of the UNCISG permits a non-breaching party to be granted interest for the late or non-payment of goods delivered.

65. The rate of such interest under Article 7.4.9 of the UNCISG is to be the “average bank short-term lending rate to prime borrowers prevailing for the currency of payment at the place for payment[.] UNCISG Article 7.4.9.(2).

66. The place of payment of the contracts at issue in this matter is the People’s Republic of China.

67. The applicable interest rate in the People’s Republic of China during the relevant time period is 3.85%.

68. In the alternative, the Uniform Commercial Code would apply to this contractual dispute.

69. If the U.C.C. applies to this matter over the UNCISG, then jurisdiction in this matter would still properly be before this court subject to diversity/alienage jurisdiction as set forth at 28 U.C.S. § 1332, and in accordance with the diversity jurisdiction principals set forth in 17th Street Associates, LLP, v. Markel International Insurance Company Limited, et al., 373 F.Supp.2d. 584 (E.D. Va., 2005)(citing) Tango Music, LLC. v. Deadquick Music, Inc., et al., 348 F.3d 244 (7th Cir., 2003).

70. In either case, the facts stated herein establish that seventy-six (76) offers were made by Defendants for Plaintiff to produce and deliver goods. Plaintiff accepted these offers and performed their duties under the contracts. Defendants have breached these contracts by failing to pay for the goods manufactured, shipped and delivered by Plaintiff.

71. Defendants' breach of these contracts has caused extensive financial damage to Plaintiff.

WHEREFORE, Plaintiff, Dongguan Jianqun Shoes Company, LTD, respectfully requests that this Honorable Court grant judgment in their favor and against Defendants, Consolidated Shoe Company, Inc., Consolidated Shoe Company, LTD, Hong Kong, Trade Winds Importing Company, Trade Winds Importing, LLC, and New Century Footwear Products, Co., Limited, in the amount of \$1,169,845.30 plus interest at the rate of 3.85%, along with any other such relief this Court deems just and proper.

Respectfully Submitted,

Woehrle Dahlberg Yao, PLLC,



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